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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,142

10/15/2003

Dean Hedlund

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INTELLECTUAL PROPERTY GROUP

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EXAMINER

LEE, WILSON

ART UNIT

PAPER NUMBER

2821

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/686,142	Applicant(s) HEDLUND ET AL.	
	Examiner Wilson Lee	Art Unit 2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20, 21, 24-26, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1, 5-7, 9-17, 19, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 2-4, 8 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-8-04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **Claim Rejections – 35 U.S.C. 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 13, 15, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 9, “infrared light illumination replaces the non-infrared light illumination of the oncoming terrain” is vague because it is not understood how the IR light replace non-IR light illumination.

Regarding Claim 13, line 2, “can be” is vague whether the claimed limitation is required or not.

Regarding Claims 15 and 27, non-IR light is comprised of a dual element light source comprised of a non-IR light element and an infrared light element is vague because infrared light element contradicts non-IR light itself. Is a non-IR or IR light?

### **Claim Rejections – 35 U.S.C. 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, 10-14, 16, 19, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebelein et al. (5,704,707).

Regarding Claim 1, Gebelein discloses a vehicle having an infrared lighting system for use with night vision viewing devices, comprising:

- a chassis carrying a straddle-type seat (See Figure 1), at least one front wheel and at least one rear wheel suspended from the chassis (See Figure 1), a handlebar assembly (See Figure 2) for steering the at least one front wheel, an engine carried by the chassis for powering the vehicle (See figure 1), a switch (38), an infrared light (28) connected to the vehicle, and non-infrared lights (56) connected to the vehicle including a taillight, and an instrument cluster light, the switch (38) controlling the illumination of the non-infrared lights, and an infrared light switch (62) that controls illumination of the infrared light (See Col. 4, line 9 to Col. 5, line 14).

Regarding Claim 5, Gebelein discloses that the switch is a relay (definition of relay is a device that makes or breaks the connection in an electric circuit. In this case, Gebelein's switch 62 can make or break the electric connection between the battery 24 and IR light 28).

Regarding Claim 6, Gebelein discloses that the infrared light switch (62) automatically actuates the switch (38) that controls illumination of the non-infrared light (56).

Regarding Claim 7, Gebelein discloses that the switch (62) is manually actuated (See Figure 2).

Regarding Claim 10, Gebelein discloses that the non-infrared lights produce visible light (red light) of wavelengths (850 nm and 960 to 1200 nm. See Col. 5, lines 20-22) not primarily in the infrared light spectrum.

Art Unit: 2821

Regarding Claim 11, Gebelein discloses a vehicle having an infrared lighting system for use with night vision viewing devices, comprising:

- a chassis carrying a seat (enclosure of the motorcycle with a seat for rider), an engine (motorcycle's engine) for powering the vehicle (See Figure 1), and an infrared light switch (62) (See Figure 3),
- an infrared light (IR beam) from infrared emitting LED (28), and one or more non-infrared lights (56) carried by the vehicle, the infrared light switch for controlling the illumination of the non-infrared lights and the infrared lights (See Col. 4, line 43 to Col. 5, line 14).

Regarding Claim 12, Gebelein discloses that the infrared light source is detachably mounted to the vehicle (i.e. subsystem 18 can be detached from grip 60) (See figure 2).

Regarding Claim 13, Gebelein discloses that the infrared light is tethered to the vehicle and is used remotely from the vehicle (See Figures 2 and 3).

Regarding Claim 14, Gebelein discloses that the non-IR light (visible) is a brake light (stop lamp 56) (See col. 5, lines 5-6).

Regarding Claim 16, Gebelein discloses that the infrared light is inherently housed in a waterproof housing for driving in rain.

Regarding Claim 19, Gebelein discloses that an engine switch and a key switch electrically connected to the infrared light switch, wherein the infrared light is inherently extinguished when either of the engine switch or the key switch is toggled to an "OFF" position since the engine is off and the electronic circuit is off.

Art Unit: 2821

Regarding Claim 28, Gebelein discloses that the infrared light is inherently housed in a waterproof housing for driving in rain.

### **Claim Rejections – 35 U.S.C. 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gebelein et al. (5,704,707).

Regarding Claim 17, as discussed above, Gebelein essentially discloses the claimed invention but does not explicitly a catch to lock the infrared switch. However, it would have been obvious to one of ordinary skill in the art to provide a lock in Gebelein to lock the grip in order to facilitate the squeezing position on the grip.

### **Allowable subject matter**

Claims 2-4, 8, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20, 21, 24, 25, 26, 29, 30 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art neither discloses nor suggests an infrared light switch, a lighting assembly having one non-Ir light source and one infrared light source, the infrared light switch being electrically connected to the lighting assembly, when the infrared switch to toggled to an

"ON" position electrical power is routed to the infrared source and power is removed from the non-IR light source.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schofield et al. (6,891,563) discloses a vehicular vision system. Abel et al. (6,803,574) discloses a night vision device for vehicles. Wright (6,714,340) discloses a vehicle license plate cover. Kurano (6,236,307) discloses a vehicle lock and alarm. Adell (5,113,175) discloses a rear motor vehicle alerting bright light dimming signal and control system.

### **Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Wilson Lee whose telephone number is (571) 272-1824.

Papers related to Technology Center 2800 applications may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The official fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, appearing to read "Wilson Lee", is written over a horizontal line.

Wilson Lee  
Primary Examiner  
U.S. Patent & Trademark Office

1-9-06